



1 and a notification from Magistrate Judge Vadas that the case had not been settled (docket  
 2 no. 28). As such, Plaintiff's motion for counsel during the settlement conference is  
 3 DENIED as moot (docket no. 26) and Defendants' motion to re-set a briefing schedule in  
 4 this case is GRANTED (docket no. 27). The Court's earlier briefing schedule, set on  
 5 May 1, 2006 (docket no. 15), is reinstated. As such, the Court orders as follows:

6 1. No later than **sixty (60) days** from the date of this order, Defendants shall  
 7 either file a motion for summary judgment or other dispositive motion, or a notice to the  
 8 Court that they are of the opinion that this matter cannot be resolved by dispositive  
 9 motion. The motion shall be supported by adequate factual documentation and shall  
 10 conform in all respects to Federal Rule of Civil Procedure 56. All papers filed with the  
 11 Court shall be promptly served on the Plaintiff.

12 2. Plaintiff's opposition to the dispositive motion shall be filed with the Court and  
 13 served on Defendants no later than **thirty (30) days** from the date Defendants' motion is  
 14 filed. The Ninth Circuit has held that the following notice should be given to Plaintiff:

15 The defendants have made a motion for summary judgment  
 16 by which they seek to have your case dismissed. A motion for  
 17 summary judgment under Rule 56 of the Federal Rules of Civil  
 18 Procedure will, if granted, end your case.

19 Rule 56 tells you what you must do in order to oppose  
 20 a motion for summary judgment. Generally, summary  
 21 judgment must be granted when there is no genuine issue of  
 22 material fact--that is, if there is no real dispute about any fact  
 23 that would affect the result of your case, the party who asked  
 24 for summary judgment is entitled to judgment as a matter of  
 25 law, which will end your case. When a party you are suing  
 26 makes a motion for summary judgment that is properly  
 27 supported by declarations (or other sworn testimony), you  
 28 cannot simply rely on what your complaint says. Instead,  
 you must set out specific facts in declarations, depositions,  
 answers to interrogatories, or authenticated documents, as  
 provided in Rule 56(e), that contradict the facts shown in the  
 defendant's declarations and documents and show that there  
 is a genuine issue of material fact for trial. If you do not  
 submit your own evidence in opposition, summary judgment,  
 if appropriate, may be entered against you. If summary  
 judgment is granted in favor of defendants, your case will be  
 dismissed and there will be no trial.

1 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (en banc).

2 Plaintiff is advised to read Rule 56 of the Federal Rules of Civil Procedure and  
3 *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986) (holding party opposing summary  
4 judgment must come forward with evidence showing triable issues of material fact on  
5 every essential element of his claim).

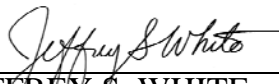
6 3. Defendants shall file a reply brief no later than **fifteen (15) days** after  
7 Plaintiff's opposition is filed.

8 4. The motion shall be deemed submitted as of the date the reply brief is due. No  
9 hearing will be held on the motion unless the Court so orders at a later date.

10 5. As to Defendant McGrath, who has apparently retired, the Clerk shall mail an  
11 address inquiry letter to: Staff Attorney, Legal Affairs Division, California Department  
12 of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. The  
13 letter shall ask for a forwarding address for Defendant McGrath to be provided to the  
14 Court under seal so that the Court can then order the U.S. Marshal to make a further  
15 attempt to serve the complaint on Defendant McGrath.

16 IT IS SO ORDERED.

17 DATED: May 3, 2007

18   
19 JEFFREY S. WHITE  
United States District Judge